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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,535	11/16/1999	KARL KLAGHOFFER	GR-98-P-5938	4486
24131	7590	09/06/2005	EXAMINER	
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			NGUYEN, STEVEN H D	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/441,535

Applicant(s)

KLAGHOFER ET AL.

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamdi (USP 6205124) in view of Kumar (USP 6163531).

Hamdi discloses a terminal (Fig 8) which comprising a controller for processing signaling information for a point-to-multipoint connection between the multimedia terminal and a plurality of terminals (Fig 8, Ref 538 and Fig 2b, Ref 169 is multipoint control unit for processing setup signal between the remote terminal 180 and 188 and the system 151); a mixer, connected to said controller for mixing data streams originating at the multimedia terminal and at the plurality of terminals and for providing data stream mixtures the plurality of terminals and mixer provides to each respective one of the plurality of terminals respective one of the DataStream mixtures including a mixture multimedia terminal and at a respective other one of the plurality of terminals (Fig 1 is a multimedia system comprising a multipoint control unit as show at Fig 2 and Fig 1 of Ref 151 having audio mix and control Ref 169 of Fig 2, See Fig 3, wherein the signals is received from the other terminals and original terminal is mixed by bridge 211, Ref 220, 239 and 238 before transmitting to the other terminals); see col. 6, lines 61 to col. 8, lines 56. However, Hamdi does not disclose a multimedia terminal for telephony based on ITU-T Standard H.323 for setting up a multipoint connection to a plurality of terminals in the preamble

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for intended use. In the same field of endeavor, Kumar discloses a terminal having a multipoint controller for setup a teleconference based on ITU-323 (See Fig 2a, Ref 220 and 218 and col. 3, lines 22-40)

Since, Hamdi suggests that DSVD multipoint control unit of a terminal using ITU for processing the setup a teleconference between the terminals. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a H.323 terminal for setup a teleconference between terminals as disclosed by Kumar's system into Hamdi's system. The motivation would have been to reduce the cost of the system.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar (USP 6163531) in view of Hamdi (USP 6205124).

Kumar discloses a terminal (Fig 2a, Ref 218 and 220) comprises a function module for setting up a multipoint connection to a first terminal and to a second terminal based on ITU-T Standard H.323 (Fig 2a, Ref 218 includes a function module for setting up a teleconference such h.225 and h.245, col. 3, lines 63-65); a controller (Fig 2a, Ref 220 which is a multipoint controller which is implicitly coupled to control module h.245 for processing signaling information between the terminals, See col. 3, lines 55-63), connected to said function module, for processing signaling information for a point-to-multipoint connection between the multimedia terminal, the first terminal, and the second terminal (Fig 2a, 212, 214 and 218). However, in the same field of endeavor, Kumar fails to disclose a mixer, connected to said controller, for mixing data streams originating at the multimedia terminal, at the first terminal, and at the second terminal and for providing data stream mixtures to the first terminal and to the second terminal and provides to each respective one of the plurality of terminals respective one

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of the DataStream mixtures including a mixture multimedia terminal and at a respective other one of the plurality of terminals. In the same field of endeavor, Hamdi discloses a multipoint controller which coupled to a mixer for mixing data streams originating at the multimedia terminal, at the first terminal, and at the second terminal and for providing data stream mixtures to the first terminal and to the second terminal and provides to each respective one of the plurality of terminals respective one of the Data Stream mixtures including a mixture multimedia terminal and at a respective other one of the plurality of terminals (Fig 1 is a multimedia system comprising a multipoint control unit as show at Fig 2 and Fig 1 of Ref 151 having audio mix and control Ref 169 of Fig 2, See Fig 3, wherein the signals is received from the other terminals and original terminal is mixed by bridge 211, Ref 220, 239 and 238 before transmitting to the other terminals, see col. 6, lines 61 to col. 8, lines 56).

Since, Kumar suggests that a multipoint controller is located within the terminal for establishing a H.323 multipoint conference such three-way conference (it is well known in the art such H.323) and Hamdi suggests the use of V.70 and V.34 terminal which has a multipoint controller for establishing a multipoint conference between its self and the other two terminals, includes a mixer for mixing its signal with the received signals from other two terminals before transmitting them to each other terminal and it is well known in the art that V.70 and V.34 terminals exchanges information with a h.323 terminal. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a mixer for mixing the original information that generated at the terminal with the received information from the different terminals and transmitting the mixed information to the other terminals as disclosed

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by Hamdi's system and method into Kumar's system and method. The motivation would have been to reduce the cost of the system.

Response to Arguments

4. Applicant's arguments filed 6/23/05 have been fully considered but they are not persuasive.

In response to applicant's argument of pages 3-5 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Hamdi discloses a terminal which comprises a multi-point controller for using to setup a teleconference between the terminals wherein the mixed signals is transmitting on the POTS by a DSVD modem which uses ITU v.34 modulation. Kumar discloses a h.323 terminal which compresses and formats the voice and data by utilizing ITU h.323 protocols. Since, a method and system for transmitting voice and data onto POTS by utilizing ITU H.323 protocol and V.34 protocol is well known and expected in the art. In order to transmitting a signal which is formatted by H.323 onto the POTS. One of ordinary skill in the art would have been compressed and formatted the transmitting signal by utilizing H.323 protocol; then the h.323 signal is encoded and modulated by ITU v.34 protocol. This method and system is well known and expected in the art for example Newlin, USP 5922047, 6011579 and Naudus, USP

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6105568. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to implement H.323 protocol as disclosed by Kumar into Hamdi's system which utilizes ITU V.34 protocol. The motivation would have been reduce the cost of the system.

In response to applicant's argument of pages 5-6 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, a method for transmitting a H.323 signal onto POTS is well known and expected in the art by performing the following: compressing and formatting the input signal with H.323 protocol; Encoding and modulating the H.323 compressed and formatted signal by using V.34 protocol. Therefore, it would have been to obvious to one of ordinary skill in the art at the time of invention was made to apply Hamdi's terminal into Kumar's terminal in order to transmit H.323 signal onto a POTS.

In response to page 6, the applicant states that Kumar teaches away from the invention because Kumar contains a MCU. In reply, the examiner only applies a H.323 terminal which has a H.323 protocol for using to compress and format the input signal. Therefore, the teaching of Kumar does not teach away from the invention.

In response to applicant's argument of pages 6-8 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining

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or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Hamdi discloses a terminal which comprises a multi-point controller for using to setup a teleconference between the terminals wherein the mixed signals is transmitting on the POTS by a DSVD modem which uses ITU v.34 modulation in V.70 terminal. Kumar discloses a h.323 terminal which compresses and formats the voice and data by utilizing ITU h.323 protocols. Since, a method and system for transmitting voice and data onto POTS by utilizing ITU H.323 protocol and V.34 protocol is well known and expected in the art. In order to transmitting a signal which is formatted by H.323 onto the POTS. One of ordinary skill in the art would have been compressed and formatted the transmitting signal by utilizing H.323 protocol; then the h.323 signal is encoded and modulated by ITU v.34 protocol. This method and system is well known and expected in the art for example Newlin, USP 5922047, 6011579 and Naudus, USP 6105568. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to implement a DSVD which utilizes ITU V.34 protocol as disclosed by Hamdi's system into Kumar system which utilizes H.232 protocol in order transmitting H.323 onto the POTS. The motivation would have been reduce the cost of the system.

In response to page 8-10, the applicant states that Kumar does not disclose each multimedia stream must be transmitted first from each terminal to the terminal with mixer for

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mixing the data streams for transmitting to the other terminals. In reply, Hamdi discloses this function as stated in the Final office action.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Steven HD Nguyen
Primary Examiner
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9/1/05